



November 27, 2018

**Via Federal Express**

The Boeing Company  
c/o Legal Department  
100 North Riverside  
Chicago, IL 60606

Rosemount Aerospace, Inc.  
c/o CT Corporation System Inc.  
1010 Dale Street North  
St. Paul, MN 55117-5603

The Boeing Company  
c/o Illinois Corporation Service C  
801 Adlai Stevenson Drive  
Springfield, IL 62703

Rosemount Aerospace, Inc.  
c/o Legal Department  
14300 Judicial Road  
Burnsville, MN 55306

**Re: In re Lion Air Flight 610 Litigation**

To Whom It May Concern:

We represent individuals in connection with the death of their loved ones who were passengers on Lion Air Flight 610 on October 29, 2018. Specifically, we represent Plaintiffs in the following matters filed on November 21, 2018, in the Circuit Court of Cook County, Illinois: (i) *Dayinta Dyah Anggana, Administrator of the Estate of Nurul Dyah Ayu Sitharesmi, Deceased v. The Boeing Company*, Case No. 2018-L-012613; and (ii) *Helda Aprilia, Administrator of the Estate of Dr. Inbnu Fajariyadi Hantoro, Deceased*, Case No. 2018-L-012614. We have attached courtesy copies of the Complaints filed in the foregoing matters for your reference.<sup>1</sup>

By way of this letter, and consistent with your obligations under the law, you are hereby placed on notice that you—including The Boeing Company and Rosemount Aerospace, Inc. and all related and affiliated persons and entities—are required to gather, preserve, and maintain any and all evidence, including physical, documentary, and electronic evidence, relating to your operations, Lion Air Flight 610 on October 29, 2018, the Boeing 737 MAX 8 model aircraft and its components/parts, and the Lion Air Flight 610 Boeing 737 MAX 8 aircraft which crashed on October 29, 2018.

It has come to our attention that The Boeing Company and Rosemount Aerospace intend to obtain certain parts of the Lion Air Flight 610 aircraft from Lion Air and/or the government of Indonesia. Your actions in this regard concern us in several respects. First, you owe it to the families of passengers who perished on Lion Air Flight 610 to retrieve such passengers' bodies

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<sup>1</sup> The Cook County Sheriff will be serving the same on the Illinois registered agent of The Boeing Company in the near future.



without further delay and before attempting to exculpate yourself from potential liability. The sanctity of the decease and their families is of paramount importance and remains our primary concern. The dignity of the passengers and their families including their religious beliefs require immediate recovery of the bodies. This is a matter of moral and ethical duty Boeing has if not legal and judicial.

You are apparently willing to expend great sums of money to obtain certain parts of the aircraft at issue (or parts of the aircraft which you wish to obtain for purpose of attempted exculpation), but not to spend money attempting to obtain the bodies of passengers on Flight 610. We beseech you to direct your attention to obtaining the bodies of those passengers immediately and to keep the families of those passengers in your minds as you proceed.

Second, the entirety of the Lion Air Flight 610 aircraft must be obtained and preserved. It is not appropriate merely to obtain parts of that aircraft which you hope to use to exculpate you from any potential liability. Accordingly, we request that you immediately take steps to retrieve the entirety of the subject aircraft. Plaintiffs are owed, and require, the entirety of such aircraft in order to conduct a full and fair investigation in support of their claims as well as to determine, to the fullest extent possible, the exact cause of their loved ones' deaths.

Third, to the extent that you plan to conduct any testing and/or destructive testing on said aircraft, or any of the parts of said aircraft, you must alert us of that intention immediately and schedule a mutually agreeable time and place for said testing to occur in our, our consultants', and clients' presence. We vehemently object to any testing conducted by you alone, outside of our and our clients' presence. We will seek appropriate intervention in the Cook County Circuit Court should you proceed to test or inspect any part of the aircraft without notice to us.

Without in any way limiting your obligations under the law, we are specifically demanding that you gather, preserve, and maintain all items listed on **Schedule A** attached hereto, including but not limited to the Boeing 737 MAX 8 aircraft with tail number "PK-LQP" involved in the Lion Air Flight 610 crash and all of its equipment, parts, tools, and related materials. Compliance with your preservation obligations includes forwarding a copy of this letter to all individuals and organizations responsible for any of the items referred to in this letter.

We suspect that much of the relevant information subject to disclosure in this matter is stored electronically on computer systems and servers, in the cloud, or on other media and devices including cell phones or personal digital assistants ("PDAs"). For purposes of this letter and its attachment, electronically stored information ("ESI") should be afforded the broadest possible definition and includes, but is not limited to, any information that may be stored in the following formats:

- Digital communications (e.g., e-mail, voice mail, instant messaging);
- Word processed documents (e.g., Word documents and drafts);
- Spreadsheets and tables (e.g., Excel worksheets);
- Accounting Application Data (e.g., QuickBooks data files);
- Image and Facsimile Files (e.g., .PDF, .TIFF, .JPG, .GIF images);



- Sound Recordings (e.g., .WAV and .MP3 files);
- Video and Animation (e.g., .AVI and .MOV files);
- Databases (e.g., Access, Oracle, SQL Server data);
- Contact and Relationship Management Data (e.g., Outlook);
- Calendar and Diary Application Data (e.g., Outlook PST, iCalendar);
- Online Access Data (e.g., Temporary Internet Files, History, Cookies);
- Presentations (e.g., PowerPoint);
- Network Access and Server Activity Logs;
- Computer Aided Design/Drawing Files; and
- Back Up and Archival Files (e.g., Zip)

Please be mindful that ESI may also be located on any proprietary software or applications you may use. Further, be advised that ESI may be stored in areas you may consider to be “not reasonably accessible.” If that is the case, you should nevertheless preserve such ESI in the interim until counsel can discuss and, if necessary, the court can rule.

### **Litigation Hold**

To the extent you have not already done so, we hereby demand that you immediately initiate a litigation hold for potentially relevant ESI, documents and tangible things, including, but not limited to, those items set forth in **Schedule A** and anything potentially relevant to Plaintiffs’ claims and your anticipated defenses. Please be mindful that preservation requires more than efforts to not destroy or dispose of evidence. Rather, you must affirmatively intervene to prevent loss due to routine operations. This is especially true with respect to computer systems, which may alter or erase data through continued use if interventions are not promptly initiated.

Further, you should anticipate that your employees, officers, or others may seek to hide, destroy, or alter ESI or other relevant documentation, and you should take immediate action to prevent or guard against such actions. This is especially true where company machines have been used for internet access or personal communications. Therefore, please be mindful that a simple litigation hold directive may not be sufficient under the circumstances and that you should take whatever measures necessary, including imaging or backups, to assure that Plaintiffs are not deprived of the right to discover all relevant information concerning this matter.

### **Custodians**

Until we have an opportunity to determine the corporate structure and mode of communication within your enterprise, we demand that the litigation hold extend to all officers, directors, employees and former employees, whether permanent or temporary, and all contractors or consultants. If you have a different opinion concerning the scope of the litigation hold, please contact us to discuss while adhering to the scope of our demand in the meantime.





## **Servers and Systems**

The complete content of all custodian servers should be preserved. This includes electronic mail servers, network storage, shared drives or databases, cloud storage, hard-drives, desktops, workstations, and email accounts. To the extent that officers or employees have sent or received potentially relevant e-mails or created or reviewed potentially relevant documents away from the office, you should preserve the contents of systems, devices, and media used for these purposes, which could include portable thumb drives, discs or drives, smart phones, PDAs, voice mailboxes, or other forms of ESI storage. Similarly, if officers or employees used online or browser-based e-mail accounts or services (such as gmail, Yahoo Mail, or the like) to send or receive potentially relevant messages and attachments, the contents of these account mailboxes should be preserved.

## **Native Form**

Please assure that all ESI is preserved in native forms and be sure not to apply any preservation methods that remove or hinder the ability to search your ESI by electronic means or make it difficult or burdensome to access or use the information efficiently in the litigation. You should also avoid taking any action that would shift ESI from reasonably accessible forms to less accessible forms.

## **Metadata**

Please preserve all system metadata. Metadata is information describing the history and characteristics of other ESI. It includes data reflecting a file's name, size, custodian, location, dates of creation, and last modification or access. With respect to e-mails, metadata includes all header routing data and encoded attachment data, in addition to the To, From, Subject, Received Date, CC and BCC fields. Metadata is automatically included or embedded in electronic files but may not be apparent to a user. Please be advised that metadata may be overwritten or corrupted unless proper steps to preserve ESI are implemented.

## **Printouts of ESI is Inadequate**

As hard copies do not preserve electronic searchability or metadata, they are not an adequate substitute for, or cumulative of, electronically stored versions. If information exists in both electronic and paper forms, you should preserve both forms.

## **Agents and Third-Parties**

Your obligations extend beyond ESI in your possession and includes ESI in the possession of others that are subject to your direction or control. As a result, you should notify any current or former agent, attorney, employee, custodian, or contractor in possession of potentially relevant ESI to preserve such ESI to the full extent of your obligation to do so, and you should take reasonable steps to secure their compliance.



## Confirmation of Compliance

Please confirm by Friday December 7, 2018, that you have taken the steps outlined in this letter to preserve ESI and tangible items and documents potentially relevant to this action.

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Should you have any questions regarding the above, please do not hesitate to contact us. Thank you for your cooperation.



Respectfully,

**KABATECK LLP**

**Brian Kabateck**

Attachment (Schedule A)

cc: Sanjiv Singh, Esq.  
Michael Indrajana, Esq.  
Chris Noyes, Esq.  
Shant Karnikian, Esq.  
Narine Vartanian, Esq.  
Brian Hong, Esq.  
Steven Hart, Esq.  
John Marrese, Esq.



## **Schedule A**

### **Definitions**

- A. “Record” includes any documents or recordings of any kind, electronic or otherwise, stored or recorded in any form or medium. The term also includes all drafts, amendments, modifications, changes or side correspondence, notes, or non-identical copies such as those that include marginalia or other printed, stamped or handwritten revisions or notations.
- B. “Electronically Stored Information” or “ESI” includes any writings, drawings, graphs, charts, photographs, sound records, images, and any other data or data complications in any medium from which electronically stored information can be obtained either directly or, if necessary, after translation by the responding party into a reasonable useable form.
- C. “Communication” includes any written, electronic, visual, or audio transmission, stored or recorded in any form or medium.
- D. “Aircraft” refers to the Boeing 737 MAX 8 aircraft with tail number “PK-LQP” involved in the Lion Air Flight 610 crash on October 29, 2018.
- E. “You” or “Your” refers to The Boeing Company and Rosemount Aerospace, Inc., and all affiliated and/or related entities.

### **Preservation Demands**

- 1. The Aircraft and all of its parts, components, equipment, and related materials;
- 2. The bodies of all passengers on the Aircraft;
- 3. The “black box(es)” on the Aircraft and any other recording device on the Aircraft;
- 4. All records and communications relating to the operation of the Aircraft, including but not limited to records and communications relating to each and every flight taken by the Aircraft during the entirety of its operational existence;
- 5. All equipment, tools, and related materials used to develop, manufacture, test, repair, and/or service the Aircraft and/or the Boeing 737 MAX 8 model aircraft and any of their parts/components;
- 6. All records reflecting development, testing, manufacture, maintenance, and/or repair of the Aircraft and/or the Boeing 737 MAX 8 model aircraft and any of their parts/components;



7. All maintenance and/or repair records for the Aircraft and any of its components/parts;
8. All communications and records relating to the maintenance and/or repair of the Aircraft and any of its components/ parts;
9. All complaints from Lion Air relating to the performance of the Boeing 737 MAX 8 and/or the Aircraft and any of their components/parts;
10. All complaints from any other airline or entity relating to the performance of the Boeing 737 MAX 8 and/or the Aircraft and any of their components/parts;
11. All flight operations manuals for the Aircraft;
12. All flight operations manuals for the Boeing 737 MAX 8 model aircraft;
13. All communications and records relating to the flight operations manual for the Aircraft, including any drafts, updates, revisions, and/or comments relating to same;
14. All communications and records relating to the flight operations manual for the Boeing 737 MAX 8 model aircraft, including any drafts, updates, revisions, and/or comments relating to same.
15. All records and communications relating to the crashing of Lion Air Flight 610;
16. All records and communications relating to the inspection and/or testing of the Boeing 737 MAX 8 model aircraft and any of its components/parts;
17. All records and communications relating to the inspection and/or testing of the Aircraft and any of its components/parts;
18. All quality assurance or quality control records relating to the Boeing 737 MAX 8 model aircraft and/or the Aircraft and any of their parts/components;
19. All records and communications relating to problems with the operation and/or function of the Boeing 737 MAX 8 model aircraft and/or the Aircraft and any of their parts/components;
20. All records and communications relating to the anti-stall system and/or maneuvering characteristics augmentation system on the Aircraft and/or the Boeing 737 MAX 8 model aircraft and/or the Aircraft;
21. All records and communications relating to the angle of attack sensors on the Aircraft and/or the Boeing 737 MAX 8 model aircraft and/or the Aircraft;





22. All records and communications referencing and/or discussing the safety of the Boeing 737 MAX 8 model aircraft and/or the Aircraft and any of their parts/components;
23. All records and communications relating to any troubleshooting with respect to the Boeing 737 MAX 8 and/or the Aircraft and any of their parts/components;
24. All records relating to the engineering, design, blueprints, and/or modeling of the Boeing 737 MAX 8 model aircraft and any of its components/parts;
25. All communications and records relating to permits, approvals, and/or clearances relating to the Boeing 737 MAX 8 model aircraft and any of its components/parts;
26. All communications and records relating to permits, approvals, and/or clearances relating to the flight operations manual for the Boeing 737 MAX 8 model aircraft;
27. All internal audits at your facilities including all safety audits, quality audits, and maintenance audits, as well as all records relating thereto;
28. All records referencing complaints or concerns with respect to the Boeing 737 MAX 8 model aircraft and/or the Aircraft;
29. All communications with media and/or news outlets relating to the Aircraft and/or the crashing of Lion Air Flight 610;
30. All internal records and communications relating to preparing responses, talking points, and/or statements to the media and/or news outlets relating to the Aircraft and/or the crashing of Lion Air Flight 610;
31. The names, addresses, telephone numbers, email addresses for all employees, temporary employees, contractors, or consultants who worked on the Boeing 737 MAX 8 model aircraft and/or its parts;
32. All communications with governmental agencies, including in the United States, Indonesia, and any other country, relating to the Boeing 737 MAX 8 model aircraft and/or the Aircraft and its parts/components, including but not limited to the Federal Aviation Administration, the National Transportation Safety Board, and any Indonesian governmental unit or agency;
33. All communications with any consultant or third-party retained by or working for you, including attorneys and experts, concerning the Boeing 737 MAX 8 model aircraft, the Aircraft, and the crashing of Lion Air Flight 610;





34. All research, studies, and/or other records you relied on to support any belief in the safe or proper functioning/operation of the Aircraft and/or the Boeing 737 MAX 8 model aircraft and any of their parts/components;
35. All research and analysis performed by or for you, or considered by you, relating to your decision to develop the Boeing 737 MAX 8 model aircraft and/or its parts/components;
36. Qualification files for all employees and former employees at your facilities involved in manufacturing, developing, testing, and/or researching the Boeing 737 MAX 8 model aircraft and/or its parts/components;
37. All computers, laptops, drives, servers, electronic storage devices, cell phones, personal digital assistants, clouds, or any other location where any records or communications responsive to the above-referenced demands may be located; and
38. Any other records and communications relating to the Boeing 737 MAX 8 model aircraft and/or the Aircraft.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DAYINTA DYAH ANGGANA,  
Administrator of the Estate of  
NURUL DYAH AYU SITHARESMI,  
Deceased,

Plaintiff,

v.

THE BOEING COMPANY, a corporation,

Defendant.

Case No. \_\_\_\_\_

Hon. \_\_\_\_\_

**JURY TRIAL DEMANDED**

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**COMPLAINT AT LAW**

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Plaintiff DAYINTA DYAH ANGGANA ("Plaintiff"), surviving heir and personal representative of Nurul Dyah Ayu Sitharesmi, deceased, alleges as follows for her causes of action against Defendant, THE BOEING COMPANY ("Boeing"), pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.:

**THE PARTIES**

1. At all times herein mentioned, the decedent Nurul Dyah Ayu Sitharesmi was an individual residing in Indonesia.

2. At all times herein mentioned, Plaintiff DAYINTA DYAH ANGGANA was and is an individual residing in Indonesia.

3. At all times herein mentioned, Defendant The Boeing Company was and is a corporation organized under the laws of Delaware with its worldwide headquarters and principal place of business in Chicago, Illinois.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the entire action by virtue of the fact that this is a civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of this Court. Additionally, this Court has specific jurisdiction over this action by virtue of the fact that Defendant Boeing's worldwide headquarters and principal place of business is in Chicago, Illinois.

5. Venue is proper in this county pursuant to section 5/2-101 of the Illinois Code of Civil Procedure because Defendant Boeing resides in this county, is authorized to transact business in this county and is doing business in this county.

6. To the extent applicable, Plaintiff elects to pursue all maritime claims in this Court under the Savings-to-Suitors Clause, 28 U.S.C. § 1333(1).

### **GENERAL ALLEGATIONS**

7. The 737 MAX 8 is the newest generation of Boeing's 737 series of aircraft.

8. At all relevant times herein, Boeing manufactured the 737 MAX 8 model aircraft in the United States.

9. In or around August 2018, Boeing delivered a newly manufactured 737 MAX 8 aircraft with tail number "PK-LQP" (the "subject aircraft") to Lion Air in Indonesia.

10. Prior to October 29, 2018, Defendant Boeing designed, manufactured, assembled and sold the subject aircraft and prepared, published, and provided to Lion Air information including, but not limited to, a 737 MAX 8 flight operations manual ("FOM") regarding the operation of the subject aircraft.

11. At the time the subject aircraft and its FOM left the custody and control of Defendant Boeing, they were defective and unreasonably dangerous in one or more of the

following respects, among other defects:

- a. The subject aircraft's defective anti-stall system, the maneuvering characteristics augmentation system (MCAS), caused the aircraft's nose to suddenly, without warning, drop and dive steeply, and said event could occur even while under manual control when a pilot would not reasonably expect a flight computer to override one's actions;
- b. The scenario described in (a) above was not covered in the defective FOM, and Defendant Boeing did not disclose the foregoing or how to recover the plane from the foregoing to Lion Air pilots when Lion Air purchased the subject aircraft;
- c. The subject aircraft received "erroneous input" from one its defective angle of attack ("AOA") sensors;
- d. The scenario described in (c) above was not covered in the defective FOM, and Defendant Boeing did not disclose how to recover the plane from the foregoing to Lion Air pilots when Lion Air purchased the subject aircraft;
- e. The subject aircraft and FOM lacked proper and adequate instructions and warnings regarding the design and functions of its MCAS system; and
- f. The subject aircraft and FOM lacked proper and adequate instructions and warnings regarding how to correct a malfunctioning MCAS system.

12. On or about October 29, 2018, Nurul Dyah Ayu Sitharesmi, was a passenger on board the subject aircraft operated by Lion Air as Flight JT 610. The flight was scheduled to depart from Jakarta to Pangkal Pinang, a provincial capital of a small island in the Java Sea.

13. On the morning of Monday, October 29, 2018, the subject aircraft departed from Jakarta's Soekarno – Hatta International Airport at or around 6:21 a.m. Shortly after takeoff, the



crew contacted air traffic controllers and requested a return to Jakarta.

14. The subject aircraft received authorization to return, but it did not manage a turnaround. Witnesses saw the subject aircraft banking left, making significant altitude shifts, and then dropping sharply. According to data from flight radars, the plane was at an altitude of about 5,000 feet when its final descent began. The subject aircraft plummeted into the sea and disintegrated upon impact. The crew and passengers would have suffered unspeakable horror, pain, terror and injury as they plummeted to their deaths.

15. Since the crash, on November 7, 2018, the Federal Aviation Authority (FAA) sent an emergency directive to all MAX 8 operators which detailed that pilots can stop a malfunctioning MCAS on those planes by merely pressing two buttons. The bulletin further details: “This condition, if not addressed, could cause the flight crew to have difficulty controlling the airplane, and lead to excessive nose-down attitude, significant altitude loss, and possible impact with terrain.”<sup>1</sup>

16. As a direct and proximate result of one or more of the above-described defective and dangerous conditions in the subject aircraft which caused it to crash into the sea as described above, Plaintiff has suffered injuries in the form of unspeakable pain, suffering, loss of companionship, and loss of earnings and support, among other damages.

**COUNT I**  
**STRICT PRODUCTS LIABILITY**  
**(Pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.)**

17. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

18. At all times herein mentioned, Defendant Boeing did design, manufacture,

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<sup>1</sup> <https://www.cnn.com/2018/11/18/americas/lion-air-boeing-safety-intl/index.html>

assemble, inspect, repair, endorse, draft, test, franchise, market, promote, advertise, supply, lease, distribute, and place into the stream of commerce the subject aircraft and FOM.

19. At the time the subject aircraft and FOM left the hands of Defendant Boeing, the subject aircraft, FOM, and the components alleged above, were defective and unsafe in manufacture, design and warnings.

20. On or about October 29, 2018, Lion Air and its officers, directors, employees, and/or agents and decedent Nurul Dyah Ayu Sitharesmi were using the subject aircraft and FOM in a reasonable and foreseeable manner. Lion Air and its officers, directors, employees, and/or agents and decedent Nurul Dyah Ayu Sitharesmi were unaware that said products were unsafe for their intended use. The defective and unsafe conditions of aforesaid products caused the subject aircraft to plummet into an uncontrollable nosedive and crash into the sea. The decedent Nurul Dyah Ayu Sitharesmi was killed as a direct and legal result of the defective and unsafe conditions of said products and the component parts thereof.

21. Defendant Boeing knew or should have known of the defects in the design and manufacture of the aforesaid products, which constitutes a hazard for those coming into contact with the aforesaid products and the component parts, and Defendant Boeing failed to notify, warn, and protect those coming into contact with the aforesaid products of the MCAS system, and such failure to warn was one of the legal causes of the incident and death of Nurul Dyah Ayu Sitharesmi.

22. The aforesaid products failed to perform as safely as an ordinary consumer would have expected when the subject aircraft plummeted into an uncontrollable nose dive and crashed into the sea.

23. As a direct and legal result of the acts and omissions of Defendant Boeing, Plaintiff has been deprived of the love, care, society, comfort, assistance, protection, affection,

companionship, guidance, solace, services and support of said decedent, and has thereby sustained, and will continue to sustain, pecuniary loss in a sum as yet unascertained.

**WHEREFORE**, Plaintiff requests that this Court grant judgment in its favor and against Defendant on Count I and award Plaintiff the following relief:

- (1) Award Plaintiff all damages available under the law in an amount to be determined at trial;
- (2) Award Plaintiff interest in an amount to be determined by the Court;
- (3) Award Plaintiff court costs in an amount to be determined by the Court; and
- (4) Grant such other relief as this Court deems appropriate and just.

**COUNT II**  
**NEGLIGENT PRODUCTS LIABILITY**  
**(Pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.)**

24. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

25. At all times herein mentioned, Defendant Boeing so negligently, carelessly, recklessly, and with gross negligence, designed, manufactured, assembled, inspected, repaired, maintained, endorsed, drafted, tested, franchised, supplied, sold, leased, distributed, and placed into the stream of commercial the subject aircraft and FOM, and negligently failed to warn relative to the said products and the components alleged above, and otherwise so negligently conducted itself, so as to directly and legally cause the injuries and damages described herein to Plaintiff.

26. At all times herein mentioned, Defendant Boeing knew, or in the exercise of reasonable care should have known, that the subject aircraft, the FOM and the components alleged above, were defectively and negligently manufactured, designed, assembled, tested, inspected, fabricated, constructed, distributed, marketed and sold. Defendant Boeing failed to take reasonable

steps to avoid exposing consumers, including Plaintiff's decedent, Nurul Dyah Ayu Sitharesmi, to the dangerous condition of such products, failed to disclose the products' known defects, failed to warn, failed to recall, failed to provide or send subsequent warnings after distribution to consumers, failed to warn Lion Air of the MCAS system, and otherwise so negligently conducted itself, so as to directly and legally cause the injuries and damages described herein to Plaintiff.

27. On or about October 29, 2018, Lion Air and its officers, directors, employees, and/or agents and decedent Nurul Dyah Ayu Sitharesmi were using the subject aircraft and FOM in a reasonable and foreseeable manner. Lion Air and its officers, directors, employees, and/or agents and decedent Nurul Dyah Ayu Sitharesmi were unaware that said products were unsafe for their intended use. The defective and unsafe conditions of the foregoing products caused the subject aircraft to fall into an uncontrollable nosedive and crash into the sea. The decedent Nurul Dyah Ayu Sitharesmi was killed as a result of the defective nature of the subject aircraft and FOM.

28. Defendant Boeing had a duty, as a designer and manufacturer of goods, to manufacture, design, inspect and test the subject aircraft and FOM to ensure they were safe for use by ordinary consumers.

29. From the time the subject aircraft and FOM were delivered to Lion Air to the time of the crash, the aforesaid products were only used for their intended purpose and were not modified, upgraded, altered, damaged, or substantially changed in any way.

30. As a direct and legal result of the acts and omissions of Defendant Boeing, Plaintiff has been deprived of the love, care, society, comfort, assistance, protection, affection, companionship, guidance, solace, services, and support of said decedent, and has thereby sustained, and will continue to sustain pecuniary loss in a sum as yet unascertained.

**WHEREFORE**, Plaintiff requests that this Court grant judgment in its favor and against



Defendant on Count II and award Plaintiff the following relief:

- (1) Award Plaintiff all damages available under the law in an amount to be determined at trial;
- (2) Award Plaintiff interest in an amount to be determined by the Court;
- (3) Award Plaintiff court costs in an amount to be determined by the Court; and
- (4) Grant such other relief as this Court deems appropriate and just.

Dated: November 21, 2018

HART MCLAUGHLIN & ELDRIDGE, LLC

By: /s/ Steven A. Hart

Steven A. Hart

*Attorneys for Plaintiff DAYINTA DYAH  
ANGGANA*

Steven A. Hart  
HART MCLAUGHLIN & ELDRIDGE, LLC  
22 West Washington Street  
Suite 1600  
Chicago, IL 60602  
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Fax: (312) 971-9243  
Firm No. 59648  
shart@hmelegal.com

Dated: November 21, 2018

KABATECK LLP

By: /s/ Brian S. Kabateck

Brian S. Kabateck (*pro hac vice* pending)

Christopher B. Noyes (*pro hac vice* pending)

*Attorneys for Plaintiff DAYINTA DYAH  
ANGGANA*

Brian S. Kabateck (*pro hac vice* pending)  
Christopher B. Noyes (*pro hac vice* pending)  
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bsk@kbklawyers.com  
cn@kbklawyers.com

Dated: November 21, 2018

SANJIV N. SINGH, APLC

Sanjiv N. Singh (*pro hac vice* pending)  
SANJIV N. SINGH, APLC  
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By: /s/ Sanjiv N. Singh  
Sanjiv N. Singh (*pro hac vice* pending)  
*Attorneys for Plaintiff DAYINTA DYAH*  
*ANGGANA*

2018L012613

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

DAYINTA DYAH ANGGANA,  
Administrator of the Estate of  
NURUL DYAH AYU SITHARESMI,  
Deceased,

Plaintiff,

v.

THE BOEING COMPANY, a corporation,

Defendant.

Case No. \_\_\_\_\_

Hon. \_\_\_\_\_

**JURY TRIAL DEMANDED**

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**AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(b)**

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Pursuant to Supreme Court Rule 222(b), counsel for the above-named plaintiff certifies that Plaintiff is seeking money damages in excess of fifty thousand dollars (\$50,000.00).

Dated: November 21, 2018

Respectfully submitted,

HART MCLAUGHLIN & ELDRIDGE, LLC

/s/ Steven A. Hart  
*One of the Attorneys for Plaintiff*

Steven A. Hart  
HART MCLAUGHLIN & ELDRIDGE, LLC  
22 West Washington Street  
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Chicago, IL 60602  
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Fax: (312) 971-9243  
Firm No. 59648  
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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

HELDA APRILIA,  
Administrator of the Estate of  
DR. IBNU FAJARIYADI HANTORO,  
Deceased,

Plaintiff,

v.

THE BOEING COMPANY, a corporation,

Defendant.

Case No. 2018-L \_\_\_\_\_

Hon. \_\_\_\_\_

**JURY TRIAL DEMANDED**

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**COMPLAINT AT LAW**

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Plaintiff HELDA APRILIA ("Plaintiff"), surviving heir and personal representative of DR. IBNU FAJARIYADI HANTORO, deceased, alleges as follows for her causes of action against Defendant, THE BOEING COMPANY ("Boeing"), pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.:

**THE PARTIES**

1. At all times herein mentioned, the decedent Dr. Ibnu Fajariyadi Hantoro was an individual residing in Indonesia.

2. At all times herein mentioned, Plaintiff was and is an individual residing in Indonesia. Plaintiff was the decedent's wife and has two minor children, a four-year old and a one-year old.

3. At all times herein mentioned, Defendant The Boeing Company was and is a corporation organized under the laws of Delaware with its worldwide headquarters and principal place of business in Chicago, Illinois.



### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over the entire action by virtue of the fact that this is a civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of this Court. Additionally, this Court has specific jurisdiction over this action by virtue of the fact that Defendant Boeing's worldwide headquarters and principal place of business is in Chicago, Illinois.

5. Venue is proper in this county pursuant to section 5/2-101 of the Illinois Code of Civil Procedure because Defendant Boeing resides in this county, is authorized to transact business in this county and is doing business in this county.

6. To the extent applicable, Plaintiff elects to pursue all maritime claims in this Court under the Savings-to-Suitors Clause, 28 U.S.C. § 1333(1).

### **GENERAL ALLEGATIONS**

7. The 737 MAX 8 is the newest generation of Boeing's 737 series of aircraft.

8. At all relevant times herein, Boeing manufactured the 737 MAX 8 model aircraft in the United States.

9. In or around August 2018, Boeing delivered a newly manufactured 737 MAX 8 aircraft with tail number "PK-LQP" (the "subject aircraft") to Lion Air in Indonesia.

10. Prior to October 29, 2018, Defendant Boeing designed, manufactured, assembled and sold the subject aircraft and prepared, published, and provided to Lion Air information including, but not limited to, a 737 MAX 8 flight operations manual ("FOM") regarding the operation of the subject aircraft.

11. At the time the subject aircraft and its FOM left the custody and control of

Defendant Boeing, they were defective and unreasonably dangerous in one or more of the following respects, among other defects:

- a. The subject aircraft's defective anti-stall system, the maneuvering characteristics augmentation system (MCAS), caused the aircraft's nose to suddenly, without warning, drop and dive steeply, and said event could occur even while under manual control when a pilot would not reasonably expect a flight computer to override one's actions;
- b. The scenario described in (a) above was not covered in the defective FOM, and Defendant Boeing did not disclose the foregoing or how to recover the plane from the foregoing to Lion Air pilots when Lion Air purchased the subject aircraft;
- c. The subject aircraft received "erroneous input" from one its defective angle of attack ("AOA") sensors;
- d. The scenario described in (c) above was not covered in the defective FOM, and Defendant Boeing did not disclose how to recover the plane from the foregoing to Lion Air pilots when Lion Air purchased the subject aircraft;
- e. The subject aircraft and FOM lacked proper and adequate instructions and warnings regarding the design and functions of its MCAS system; and
- f. The subject aircraft and FOM lacked proper and adequate instructions and warnings regarding how to correct a malfunctioning MCAS system.

12. On or about October 29, 2018, Dr. Ibnu Fajariyadi Hantoro, was a passenger on board the subject aircraft operated by Lion Air as Flight JT 610. The flight was scheduled to depart from Jakarta to Pangkal Pinang, a provincial capital of a small island in the Java Sea.

13. On the morning of Monday, October 29, 2018, the subject aircraft departed from

Jakarta's Soekarno – Hatta International Airport at or around 6:21 a.m. Shortly after takeoff, the crew contacted air traffic controllers and requested a return to Jakarta.

14. The subject aircraft received authorization to return, but it did not manage a turnaround. Witnesses saw the subject aircraft banking left, making significant altitude shifts, and then dropping sharply. According to data from flight radars, the plane was at an altitude of about 5,000 feet when its final descent began. The subject aircraft plummeted into the sea and disintegrated upon impact. The crew and passengers would have suffered unspeakable horror, pain, terror and injury as they plummeted to their deaths.

15. Since the crash, on November 7, 2018, the Federal Aviation Authority (FAA) sent an emergency directive to all MAX 8 operators which detailed that pilots can stop a malfunctioning MCAS on those planes by merely pressing two buttons. The bulletin further details: "This condition, if not addressed, could cause the flight crew to have difficulty controlling the airplane, and lead to excessive nose-down attitude, significant altitude loss, and possible impact with terrain."<sup>1</sup>

16. As a direct and proximate result of one or more of the above-described defective and dangerous conditions in the subject aircraft which caused it to crash into the sea as described above, Plaintiff as well as her minor children have suffered injuries in the form of unspeakable pain, suffering, loss of companionship, and loss of earnings and support, among other damages.

**COUNT I**  
**STRICT PRODUCTS LIABILITY**  
**(Pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.)**

17. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

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<sup>1</sup> <https://www.cnn.com/2018/11/18/americas/lion-air-boeing-safety-intl/index.html>

18. At all times herein mentioned, Defendant Boeing did design, manufacture, assemble, inspect, repair, endorse, draft, test, franchise, market, promote, advertise, supply, lease, distribute, and place into the stream of commerce the subject aircraft and FOM.

19. At the time the subject aircraft and FOM left the hands of Defendant Boeing, the subject aircraft, FOM, and the components alleged above, were defective and unsafe in manufacture, design and warnings.

20. On or about October 29, 2018, Lion Air and its officers, directors, employees, and/or agents and decedent Dr. Ibnu Fajariyadi Hantoro were using the subject aircraft and FOM in a reasonable and foreseeable manner. Lion Air and its officers, directors, employees, and/or agents and decedent Dr. Ibnu Fajariyadi Hantoro were unaware that said products were unsafe for their intended use. The defective and unsafe conditions of aforesaid products caused the subject aircraft to plummet into an uncontrollable nosedive and crash into the sea. The decedent Dr. Ibnu Fajariyadi Hantoro was killed as a direct and legal result of the defective and unsafe conditions of said products and the component parts thereof.

21. Defendant Boeing knew or should have known of the defects in the design and manufacture of the aforesaid products, which constitutes a hazard for those coming into contact with the aforesaid products and the component parts, and Defendant Boeing failed to notify, warn, and protect those coming into contact with the aforesaid products of the MCAS system, and such failure to warn was one of the legal causes of the incident and death of Dr. Ibnu Fajariyadi Hantoro.

22. The aforesaid products failed to perform as safely as an ordinary consumer would have expected when the subject aircraft plummeted into an uncontrollable nose dive and crashed into the sea.

23. As a direct and legal result of the acts and omissions of Defendant Boeing, Plaintiff



has been deprived of the love, care, society, comfort, assistance, protection, affection, companionship, guidance, solace, services and support of said decedent, and has thereby sustained, and will continue to sustain, pecuniary loss in a sum as yet unascertained.

**WHEREFORE**, Plaintiff requests that this Court grant judgment in its favor and against Defendant on Count I and award Plaintiff the following relief:

- (1) Award Plaintiff all damages available under the law in an amount to be determined at trial;
- (2) Award Plaintiff interest in an amount to be determined by the Court;
- (3) Award Plaintiff court costs in an amount to be determined by the Court; and
- (4) Grant such other relief as this Court deems appropriate and just.

**COUNT II**  
**NEGLIGENT PRODUCTS LIABILITY**  
**(Pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, et seq.)**

24. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

25. At all times herein mentioned, Defendant Boeing so negligently, carelessly, recklessly, and with gross negligence, designed, manufactured, assembled, inspected, repaired, maintained, endorsed, drafted, tested, franchised, supplied, sold, leased, distributed, and placed into the stream of commercial the subject aircraft and FOM, and negligently failed to warn relative to the said products and the components alleged above, and otherwise so negligently conducted itself, so as to directly and legally cause the injuries and damages described herein to Plaintiff.

26. At all times herein mentioned, Defendant Boeing knew, or in the exercise of reasonable care should have known, that the subject aircraft, the FOM and the components alleged above, were defectively and negligently manufactured, designed, assembled, tested, inspected,

fabricated, constructed, distributed, marketed and sold. Defendant Boeing failed to take reasonable steps to avoid exposing consumers, including Plaintiff's decedent, Dr. Ibnu Fajariyadi Hantoro, to the dangerous condition of such products, failed to disclose the products' known defects, failed to warn, failed to recall, failed to provide or send subsequent warnings after distribution to consumers, failed to warn Lion Air of the MCAS system, and otherwise so negligently conducted itself, so as to directly and legally cause the injuries and damages described herein to Plaintiff and her minor children.

27. On or about October 29, 2018, Lion Air and its officers, directors, employees, and/or agents and decedent Dr. Ibnu Fajariyadi Hantoro were using the subject aircraft and FOM in a reasonable and foreseeable manner. Lion Air and its officers, directors, employees, and/or agents and decedent Dr. Ibnu Fajariyadi Hantoro were unaware that said products were unsafe for their intended use. The defective and unsafe conditions of the foregoing products caused the subject aircraft to fall into an uncontrollable nosedive and crash into the sea. The decedent Dr. Ibnu Fajariyadi Hantoro was killed as a result of the defective nature of the subject aircraft and FOM.

28. Defendant Boeing had a duty, as a designer and manufacturer of goods, to manufacture, design, inspect and test the subject aircraft and FOM to ensure they were safe for use by ordinary consumers.

29. From the time the subject aircraft and FOM were delivered to Lion Air to the time of the crash, the aforesaid products were only used for their intended purpose and were not modified, upgraded, altered, damaged, or substantially changed in any way.

30. As a direct and legal result of the acts and omissions of Defendant Boeing, Plaintiff has been deprived of the love, care, society, comfort, assistance, protection, affection,

companionship, guidance, solace, services, and support of said decedent, and has thereby sustained, and will continue to sustain pecuniary loss in a sum as yet unascertained.

**WHEREFORE**, Plaintiff requests that this Court grant judgment in its favor and against Defendant on Count II and award Plaintiff the following relief:

- (1) Award Plaintiff all damages available under the law in an amount to be determined at trial;
- (2) Award Plaintiff interest in an amount to be determined by the Court;
- (3) Award Plaintiff court costs in an amount to be determined by the Court; and
- (4) Grant such other relief as this Court deems appropriate and just.

Dated: November 21, 2018

HART MCLAUGHLIN & ELDRIDGE, LLC

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Dated: November 21, 2018

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

HELDA APRILIA,  
Administrator of the Estate of  
DR. IBNU FAJARIYADI HANTORO,  
Deceased,

Plaintiff,

v.

THE BOEING COMPANY, a corporation,

Defendant.

Case No. 2018-L\_\_\_\_\_

Hon. \_\_\_\_\_

**JURY TRIAL DEMANDED**

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**AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(b)**

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Pursuant to Supreme Court Rule 222(b), counsel for the above-named plaintiff certifies that Plaintiff is seeking money damages in excess of fifty thousand dollars (\$50,000.00).

Dated: November 21, 2018

Respectfully submitted,

HART McLAUGHLIN & ELDRIDGE, LLC

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